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“Judging Iran” at GW Law: Judge Charles Brower Reflects on Career Milestones and Advice to Future Generations

Denis Sarvarov · Tuesday, May 30th, 2023



Judge Charles N. Brower has combined extensive practice at the bar with distinguished public service. He has served for forty years as a judge of the Iran-United States Claims Tribunal in The Hague (‘IUSCT’), sat as judge *ad hoc* on the Inter-American Court of Human Rights, and is the most-appointed American judge *ad hoc* of the International Court of Justice. Judge Brower is also the author of the authoritative volume “*The Iran-United States Claims Tribunal*” (1998). He has previously been [interviewed](#) on the Blog in 2019. This post provides an overview of salient themes and ideas discussed during an April 13, 2023 book launch and discussion of Judge Brower’s newly published memoir “*Judging Iran: A Memoir of The Hague, The White House, and Life on the Front Line of International Justice*”, hosted by the George Washington University (‘GW’) Law School in Washington, DC.

Associate Dean Rosa Celorio (GW Law) gave welcome remarks and briefly described Judge

Brower's extensive career that has spanned over six decades. The room was full of his former law clerks and interns (myself included), colleagues, students, and many other lovers of international law and investment arbitration. The international arbitration student societies of GW, Georgetown University, and George Mason University contributed to the organization of this event, along with ICSID and the American Society of International Law.

Professor Sean Murphy (GW Law), international law scholar and an old friend of Judge Brower, facilitated the discussion. Summaries of the discussion and Judge Brower's answers to questions are provided as narratives below. Of course, it was impossible to cover the entire contents of the book in one hour of discussion. With a nod to the audience, which in large part included students, the discussion focused on Judge Brower's professional development path, which is covered in the first third of the memoir. However, many other fascinating stories covered in the book remained untouched during the talk. So, I encourage everyone to read the entire memoir.

Education and Choice of Profession

Upon graduating Harvard College in 1957, Judge Brower considered acquiring a PhD because he believed it would enhance his career opportunities in the foreign service. However, his father, Charles H. Brower, strongly suggested that he pursue a law degree. "*All of my clients' CEOs are lawyers,*" Judge Brower recalled his father telling him. Indeed, that convinced Judge Brower that legal education gives one a solid foundation to pursue any kind of career. Many in the audience related to Judge Brower's episode, and indeed the same dialogue happened between me and my father almost ten years ago when I was considering pursuing journalism, history, or law at university.

Judge Brower noted that his father was his first life-long mentor to whom he is forever grateful. His father was a runaway success, who obtained a full scholarship at Rutgers College, and by the 1960s was on the cover of *Time* magazine as a successful chairman of the board, CEO, and president of the famous Batten, Barton, Durstine & Osborn advertising agency.

In that regard, Judge Brower advised all aspiring lawyers: "*When you are a young professional, you need to make sure that whatever step you take is a right step **for you.***"

Early Legal Career

Although it may come as a surprise – but perhaps an inspiration for some – the first year of Harvard Law School for Judge Brower was an "academic disaster". His average grade in class was a C-plus. However, Larry Morris, then the White & Case hiring partner, was still impressed and had faith in young Charles who completed an undergraduate degree at Harvard *cum laude* and was a Fulbright scholar in Germany for a year after graduation. He asked the young law student to keep in touch, and after improving his academic performance during the following two years of law school, Judge Brower began his legal career as an associate in the New York office of White & Case in September 1961.

"*Identifying opportunity is the key to success.*" In his early years at White & Case, Judge Brower was very enthusiastic about handling domestic litigation cases given that international disputes were rare then, and working as a corporate lawyer did not appeal to him. He said that one day a senior associate walked into his office asking for help drafting a summary of the transcript in a routine will contest case. His colleagues expressed little interest, but Judge Brower saw an

opportunity to prove himself, thinking: “*Maybe after this assignment I will be asked to draft a brief, and then maybe something more interesting.*” And so it turned out. The next time he worked with this senior associate was on a case before the U.S. Supreme Court. The moral of this story is obvious: dedication and commitment will get you noticed and appreciated, which will eventually lead to growth and promotion.

“Defending” President Carter

Another notable episode of Brower’s early career was his involvement in the famous case of *Goldwater v. Carter*. In 1978, the group of Republican senators led by Sen. Barry Goldwater sued President Jimmy Carter, seeking an order enjoining him from terminating the U.S.-Republic of China (Taiwan) Mutual Defense Treaty without the consent of the Senate.

Judge Brower managed to participate in the case while not representing any of the parties. Arthur Rovine, then the Legal Adviser in the U.S. Department of State, asked him to draft an amicus brief arguing on behalf of Democratic administration against his fellow Republicans. Judge Brower’s justification was that safeguarding presidential power should be a bipartisan concern and, more fundamentally, he was in favor of the rule of law in international affairs. Hence, he wrote that President was entitled to terminate the Treaty based on international law principles codified in the Vienna Convention on the Law of Treaties.

To his great amazement, the day before the hearing at the U.S. Court of Appeals for the District of Columbia Circuit, Judge Brower received a call from a law clerk inviting him to present his brief at the request of several appellate judges sitting en banc. This was an unprecedented occasion; judges rarely wished to question the author of an amicus brief in person. The Court of Appeals ruled in Carter’s favor, and the U.S. Supreme Court later ordered the district court to dismiss the case. Senator Goldwater, known as a conservative foreign policy hawk, was unhappy with the outcome of the case, and his dissatisfaction with Judge Brower lingered for many years.

President Reagan’s Mishap

“*My father fired Ronald Reagan!*”, Judge Brower announced as a preface to the story of his unsuccessful appointment as a legal adviser of the State Department. As many know, President Ronald Reagan was an actor and host of a General Electric (‘GE’) television production before becoming a politician. In 1962, GE canceled the program, but the “honor” of breaking the news fell on the shoulders of Charles Brower Sr. mentioned earlier, as his advertising agency originally brokered the deal to appoint Reagan as GE spokesman. The future U.S. president reportedly lamented the end of his Hollywood career in Brower Sr.’s office.

As recompense for Judge Brower’s advocacy on behalf of the Democratic administration, Senator Goldwater allegedly wrote a letter to President Reagan stating that Judge Brower was not suitable for the position. It was soon revealed that the real ringleader of the letter in opposition to Judge Brower’s appointment was a rival candidate for the same position from Senator Goldwater’s staff. Although Brower ended up not getting the job for other reasons, he was relieved that it saved him from an impossible mission later. Otherwise, as a State Department legal adviser, he would have had to represent the U.S. in *Nicaragua v. United States* case before the International Court of Justice, in which the United States infamously withdrew from the Court’s compulsory jurisdiction in response to its adverse ruling.

And, despite Brower Sr.'s untimely notice to President Reagan decades earlier, the Reagan Administration eventually supported Judge Brower's appointment to the IUSCT in the fall of 1983.

Coming to the Hague

The U.S. and Iran established this tribunal to settle various claims of American investors who suffered losses because of the 1979 Iranian Revolution and the subsequent expropriation of foreign investments. The situation escalated when militarized groups took employees of the U.S. Embassy in Tehran hostage. The U.S. retaliated by freezing all Iranian assets abroad for billions of dollars. Judge Brower characterized this situation as a "Mexican standoff." As a result, the Algiers Accords of 1981 created the IUSCT. It is difficult to overestimate the importance of this arbitral body, which has tried some four thousand cases over four decades. The practice of the Tribunal has largely influenced the development of international investment law and arbitration. It remains one of the largest sources of case law publicly available for review unlike many other confidential arbitral awards.

In January 1984, Judge Brower arrived in The Hague for his initial two-year term. As it turned out, he would serve more than 21 years as a sitting judge of the Tribunal. He remains a part-time member of the IUSCT to this day.

Among many distinguished practitioners he met during his years in The Hague, Judge Brower noted the contributions of his first law clerk, David Caron, who later became himself a titular judge of the IUCST, a United Nations Claims Committee commissioner, and a world-renowned professor of international law.

Professional Advice from Judge Brower



Judge Charles N. Brower signing copies of his memoir at GW Law

The final question for Judge Brower was whether he had any regrets about his career. Judge Brower's answer was unequivocal: *"No, nothing. I have always been very lucky. It has been possible because of a number of people I have worked for and who have nurtured me throughout my career. People pick you up **for a reason.**"* That characterizes Judge Brower's impeccable professional journey and his many life accomplishments in the best way.

Several valuable professional principles allowed Judge Brower to consistently succeed in his career:

- Make your career decisions wisely. Be sure that this is the best course for you and that is what you really want.
- Do not miss opportunities to demonstrate your skills and hard work. Be ready to help your senior colleagues and become a valuable team member who is approachable and reliable.
- Seek mentors in your practice area. There are always kindhearted individuals who understand your struggle and are willing to help. Be grateful and ready to learn from them. One day, you become a mentor to someone else and pass the baton.

Finally, last year, on the eve of his 87th birthday, Judge Brower resigned from his pending cases as a judge *ad hoc* of the International Court of Justice. The final important lesson from the eminent arbitrator was: “**Know when you are at the top, and leave at the right moment, always keeping your reputation intact.**” Had Judge Brower pursued a career in international affairs, the legal world would have lost a great practitioner and author, but the American foreign service would have no doubt gained in return.

Concluding Remarks

Overall, the memoir is a fascinating read not only for lawyers, but also for foreign service professionals. The book provides Judge Brower’s perspective on the major geopolitical adventures in which the U.S. was involved in the second half of the 20th century. The memoir sheds light on the extent to which international law, politics, business, and foreign affairs are interrelated. It also provides a summary of how states moved from gunboat diplomacy to amicable resolution of disputes via arbitration and negotiation throughout the last century. Wars and atrocities still occur today, although recourse to these means is considered increasingly barbaric and condemned by the international community.

At the same time, the investor-state dispute settlement (‘ISDS’) system is now in crisis with the denunciation of the Energy Charter Treaty by European contracting parties and BITs around the world. Among others, the U.S. legislators are pushing for the removal of ISDS provisions from the United States trade and investment agreements “to foreclose the possibility of future attacks against the U.S. and signaling to trading partners that they will not be penalized for prioritizing the public interest.” UNCITRAL Working Group III is working to create a supranational multilateral investment court, which will inevitably be subject to the political influence of member states in appointing their judges. All these developments are pulling the rug from under the feet of the ISDS. One can only hope that during these tectonic movements the basic principles which underpin ISDS will not be forgotten: the creation of a positive environment to attract foreign investment in developing countries in the post-colonial global society. People, like Judge Brower, have dedicated their lives to shaping this system, and their legacy should not be abandoned, but rather fostered by future generations of international lawyers in an effort to uphold the rule of law.

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